



August 14, 2000

Mr. Jay Brown
Parker County Sheriff
Parker County Sheriff's Department
129 Hogle Street
Weatherford, Texas 76086

OR2000-3089

Dear Sheriff Brown:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 138062.

The Sheriff of Parker County Texas (the "sheriff") received a request for copies of the shift schedules for the previous thirty days of all staff in all departments of the sheriff's office, including the jail staff, as well as the names, positions, work hours, and duties of all sheriff's office employees. You claim that the information is excepted from disclosure under section 552.108 of the Government Code. The requestor, Parker County Commissioner, Mack Dobbs (the "commissioner"), has submitted arguments in support of his position to this office. We have considered the sheriff's arguments and the exception you claim, the commissioner's comments, and have reviewed the submitted information.

In Attorney General Opinion JM-119 (1983), this office stated that a member of the board of trustees of a community college district has an inherent right of access to district records when the trustee requests access to the records in his official capacity. Attorney General Opinion JM-119 at 3 (1983). Accordingly, the opinion concluded that when a trustee exercises his inherent right to district records and requests records in his official capacity and not as a member of the general public, the custodian of the district's records cannot deny the trustee access to the requested records on the basis of exceptions to public disclosure set forth in the Public Information Act.¹ In order to carry out his official duties, a member of a

¹Furthermore, we have stated that absent express statutory authority, a majority of a governing board may not restrict an individual member's access to the records of the governmental body. See Attorney General Letter Opinion No. 93-69 (1993).

governmental body must have complete and unfettered access to records maintained by the governmental body. *Id.*; Attorney General Letter Opinion No. 93-69 (1993).

You express concern that a release to the commissioner would constitute a release of the information to the “public” for the purposes of the Act, thereby implicating the Act’s prohibition against selective disclosure and requiring that the information then be made available to any member of the public. *See* Gov’t Code § 552.007. However, as he notes in his requests and correspondence with both the sheriff and this office, the commissioner makes this request in his “official capacity as Parker County Commissioner” for the purposes of fulfilling his “obligation to administer the public affairs of Parker County,” including oversight of the budgetary planning of the sheriff’s office. After reviewing the arguments submitted to this office, we find that the commissioner is requesting the information at issue in his official capacity; as such, the Act does not control the commissioner’s right of access to the information. *See* Attorney General Opinion JM-119 (1983). Therefore, a release or transfer of the requested records to the commissioner will not constitute a release to the public for purposes of section 552.007. Additionally, we note that information may be transferred from one individual to another within a governmental body without losing its confidential status. *See* Open Records Decision No. 468 (1987) (employee of agency whose job requires or permits certain access to records has not been granted access as member of public). Because this request is outside the Act, we do not address your claimed exception.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental

body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script that reads "Amanda Crawford".

Amanda Crawford
Assistant Attorney General
Open Records Division

AEC/er

Ref: ID# 138067

Encl. Submitted documents

cc: Mr. Mark Dobbs
Parker County Commissioner, Precinct Two
3033 FM 1885
Weatherford, Texas 76088
(w/o enclosures)